

Fresno, California

February 3, 2011

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Oliver Baines III	Councilmember
	Andreas Borgeas	Councilmember
	Clinton Olivier	Acting Council President
	Sal Quintero	Councilmember
	Blong Xiong	Councilmember
	Lee Brand	Council President
Absent:	Larry Westerlund	Councilmember (Testifying in Sacramento on RDA)

Bruce Rudd, Assistant City Manager
Jim Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Father Jim Pappas of Saint George Greek Orthodox Church gave the invocation, and Councilmember Baines led the Pledge of Allegiance.

PRESENTATION OF THE SPCA PET OF THE MONTH – PRESIDENT BRAND

Presented.

RESOLUTION OF COMMENDATION TO JOHN TEXEIRA FOR 50 YEARS OF SERVICE AS A HOUSING AUTHORITY BOARD MEMBER – MAYOR’S OFFICE

To be rescheduled at a later date.

PRESENTATION AND RECOGNITION TO THE CITY OF FRESNO BY CASA (COURT APPOINTED SPECIAL ADVOCATES FOR CHILDREN) FOR THE 2010 HOLIDAY TOY DRIVE

The ISD and Personnel Services departments were recognized for the participation.

PRESENTATION OF “PRIME TIME FOR BUSINESS: LICENSED CONTRACTORS AFFINITY GROUP, FEATURING DAVID FOGT, ENFORCEMENT OFFICER, CONTRACTORS STATE LICENSE BOARD” – D&CR DEPARTMENT

Presentation made.

APPROVE MINUTES OF JANUARY 27, 2011

On motion of Councilmember Xiong, seconded by Councilmember Quintero, duly carried, RESOLVED, the minutes of January 27, 2011, *approved as amended*, on Page 157-24, relative to the Fresno County Transportation Authority, adding the motion of President Brand with a second by Councilmember Quintero, wherein Councilmember Borgeas was unanimously appointed to the FCTA for another two-year term.

APPROVE SPECIAL JOINT MEETING MINUTES OF JANUARY 20, 2011

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the special meeting minutes of January 20, 2011, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong again extended his sincere thanks to all city staff for their work with the family of Gen. Van Pao on his funeral arrangements, encouraged all city officials to participate and show their support for the community as the City of Fresno is the host to this huge congregation, and also invited the public to attend.

Councilmember Olivier questioned the status of the Martin Ray Reilly Park, with ACM Rudd stating there had been an issue with the district grant and explained, and stated options would now have to be looked at as the park was subject to the ongoing challenges of this fiscal crisis.

President Brand stated there was a lot of emotion associated with last week's major vote on the solid waste franchise issue which he stated had dragged on in the airwaves and requested everyone put the issue behind them and continue to work together as there were many challenges ahead.

APPROVE AGENDA:

(9:15 A.M. "A") RESOLUTION - ADOPTING A POLICY TO WAIVE THE CITYWIDE DEVELOPMENT IMPACT FEES FOR PARKS, MAJOR STREETS, AND TRAFFIC SIGNALS WITHIN THE DOWNTOWN DEVELOPMENT INCENTIVE ZONE

Removed from the agenda by staff.

(10:10 A.M. 'A') JOINT COUNCIL/AGENCY RESOLUTION - MAKING CERTAIN FINDINGS PURSUANT TO COMMUNITY REDEVELOPMENT LAW, AND AUTHORIZING THE EXPENDITURE OF \$500,000 FOR THE INSTALLATION OF LANDSCAPING AND FACILITY IMPROVEMENTS FOR THE NEIGHBORHOOD YOUTH CENTER AT CALIFORNIA AND ELM AVENUES

Removed from the agenda by staff.

(1-D) APPROVE APPOINTMENTS OF MIGUEL ARIAS (COUNCILMEMBER XIONG) AND BOB COOK (COUNCILMEMBER QUINTERO) TO THE CHARTER REVIEW COMMITTEE

Councilmember Xiong advised he was replacing Miguel Arias with Daniel Fitzpatrick as his appointee. So noted.

On motion of Acting President Olivier, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

ADOPT CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2011-11 - 67TH AMENDMENT TO AAR 2010-138 APPROPRIATING \$79,000 TO THE PUBLIC WORKS DEPARTMENT/STREET MAINTENANCE DIVISION/STREETLIGHT SECTION TO REPLACE COPPER WIRE STOLEN FROM CITY STREETLIGHTS

(1-B) APPROVE THE ACQUISITION OF ONE GRANT DEED FROM PROPERTY OWNED BY THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT FOR THE AMOUNT OF \$35,490 FOR THE BASIN BM TRAIL PROJECT ON THE NORTHEAST CORNER OF E. CALIFORNIA AND S. FOWLER AVENUES

#1 AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ACCEPT THE GRANT DEED AND EXECUTE THE AGREEMENT FOR PURCHASE & SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION

(1-C) RESOLUTION NO. 2011-12 - 72ND AMENDMENT TO AAR 2010-138 APPROPRIATING \$25,800 OF ARRA FUNDS FROM THE FRESNO COUNTY WORKFORCE INVESTMENT BOARD FOR CONTRACTOR OUTREACH, EDUCATION, AND FACILITATION OF “GREEN JOB” DEVELOPMENT

(1-D) APPROVE APPOINTMENTS OF DANIEL FITZPATRICK (COUNCILMEMBER XIONG), AND BOB COOK (COUNCILMEMBER QUINTERO) TO THE CHARTER REVIEW COMMITTEE

(1-E) BILL NO. B-3 – ORDINANCE NO. 2011-3 - AMENDING THE FRESNO MUNICIPAL CODE TO COMPLY WITH SETTLEMENT REACHED BETWEEN ACTIVE AND RETIRED CITY EMPLOYEES RELATING TO THE CLARIFICATION OF COMPENSATION ISSUES FOR THE EMPLOYEE’S RETIREMENT SYSTEM

(1-F) BILL NO. B-4 – ORDINANCE NO. 2011-4 - AMENDING SECTION 12-611 OF THE FRESNO MUNICIPAL CODE RELATING TO COUNCIL DISTRICT PLAN IMPLEMENTATION COMMITTEES – COUNCILMEMBER BORGEAS

On motion of Acting President Olivier, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

CLOSED SESSION:

(‘A’) CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION – CASE NAME: SABINA SIDHU V. COF, ET AL., FRESNO COUNTY SUPERIOR COURT CASE

The City Council met in closed session in Room 2125 at the hour of 9:08 a.m. to consider the above matter and reconvened in regular open session at 9:23 a.m.

(9:15 A.M. “B”) REJECT ALL BIDS TO CONSTRUCT THE CENTRAL AND SOUTHEAST DISTRICT POLICING STATIONS ALONG WITH A SECURE STORAGE BUILDING AT THE SOUTHEAST DISTRICT STATION

Public Works Director Weimiller reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Speaking to the issue were: Allen Fortune, 6016 N. Kavanagh, President of Fortune-Ratliff General Contractors, project low bidder, who stated he wanted answers on the recommendation to reject, stated they were told at the June pre-bid meeting that the City had 90% of the estimated \$15 million budget in hand, and spoke to the benefits that would come with this project and to the problem of increased costs in the future; Mehmet Noyan, 685 W. Alluvial, partner in the Mid State Bowl property, who stated they sold a portion of the property to City for the substation and tailored their plans around that, spoke to the great interest rates currently, and requested the bids not be rejected or as an alternative allow his partnership to build the substation and treat it as a lease-back or some other structure; “Big Sue”, who spoke to the Mid State property and the former Hmong garden property; Tom Boyajian, former council member for District 1, who spoke to the history of the Mid State property and to the importance of building the substation to create jobs, help stabilize the area and eliminate blight; and Domenico Santeufemia, owner of DiCicco’s Italian Restaurant at Clinton & Weber, who expressed strong concern with rejecting bids, stated area businesses began improving their businesses in anticipation of the substation coming in, **(2 – 0)** questioned exactly what rejection of the bids meant, and urged moving forward on the project.

Councilmember Xiong spoke to the history of the Clinton/Weber property and importance of the substation project, stated he just heard of the recommendation to reject bids on the 14th and also had issues with that, stated he understood the discussion on the budget/economy but he felt there were some ideas to be looked at to keep this project moving, requested some time to sit with the developer, staff and the community to discuss all issues and options fully before Council makes a decision to reject bids, and questioned if this matter was time sensitive. Mr. Weimiller and ACM Rudd stated the bids were time sensitive and explained, spoke to the need to come to a decision on this matter, stated the fiscal realities the city was dealing with (employee layoffs, reduction in services and other painful decisions Council will have to make) were the reasons for the recommendation and further elaborated, and

stated staff was open to looking at a lease option but added even a lease option would potentially require additional general fund revenue and could also be contrary to the new deployment strategy that is currently being evaluated. Councilmember Xiong stated he was not aware of the time sensitivity issue, apologized if he somehow missed that but expressed concern if that was not the case as the time sensitivity was now being placed on his shoulders to make this decision, acknowledged the reality of the budget but stated he was not sufficiently engaged in that discussion to support staff's position, and stated since this was his district he wanted time to meet with staff, the developer and his constituents. Upon his question City Attorney Sanchez stated a motion could be made to continue this matter, and added the extension agreed to by the proposers expired on January 28th, staff could attempt to get an extension on that, and absent that extension the time lines had expired. Purchasing Manager McDonald further clarified issues relative to the process, willingness/unwillingness to extend bids, this bid being dead, and the challenge of extending prices. Councilmember Xiong made a motion to continue the matter to allow staff to seek an extension from the bidders and to allow time for him to meet as quickly as possible with the developer, staff and constituents. Mr. Rudd clarified to move forward on the central station also meant moving forward on the southeast station as it would have an impact on the overall deployment strategy the chief was developing right now, and added that would result in at least \$700,000 a year in debt service and reiterated the City did not have the capacity to take on any additional debt. Councilmember Xiong stated he was willing to have a discussion on the budget and strategy, stated if he had been included in discussions he probably would not be discussing this now, and stated since he had not been engaged all he was asking for was time to have that discussion so he could inform his constituents of any change in plans. Councilmember Borgeas seconded the motion for discussion purposes.

Mr. Sanchez, Mr. Rudd, Councilmember Xiong and Chief Dyer responded to questions and/or comments of Councilmembers Borgeas, Quintero and Baines and/or clarified issues relative to what the legal consequence was of the bid expiration, support for members requesting information but feeling that nothing will change with an extra week, the southeast station, project funding availability/status, intent of the motion/what is being sought, if rejecting bids this date would release bidders from their obligation/if the projects could still be revisited in the future, the message being sent on the importance of including council members in important district issues, and the training center including revenue stream, contracts with other public safety agencies to utilize the facility, and debt service funding source.

President Brand spoke to the issue including weighing the project benefits against current budget problems, history of the projects/unproven repayment method/consequences now being seen/continued shortfalls in the coming years, priorities, and his recommendation to wait for upcoming budget information and then decide where to go. Chief Dyer and Mr. Rudd responded to questions of Councilmembers Quintero and Baines and/or clarified issues relative to the Cedar/Butler station, potential for satellite stations **(3 – 0)**, need for the Cedar/Butler station due to the many families in the area and the new school coming in, support for and benefit of satellite stations, and the new fiscal reality, new deployment strategy that will be coming to Council, and the need to reject bids and shelve the projects based on the fiscal realities. Councilmember Xiong clarified his request to continue was not about the economy and strategies but was about process/having a discussion/being engaged.

On motion of Councilmember Xiong, seconded by Councilmember Borgeas, duly carried, RESOLVED, Item 9:15 a.m. 'B' hereby continued to allow (1) staff to seek an extension from the bidders and (2) Councilmember Xiong to meet as soon as possible with staff, the developer and his constituents, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

(10:00 A.M.) HEARING TO CONSIDER DESIGNATING THE CREST THEATER AND THE ALFRED & MINNIE CHERIN HOME TO THE LOCAL REGISTER OF HISTORIC RESOURCES

#1 RESOLUTION NO. 2011-13 - DESIGNATING THE CREST THEATER LOCATED AT 1160 BROADWAY PLAZA TO THE LOCAL REGISTER OF HISTORIC RESOURCES

#2 RESOLUTION NO. 2011-14 - DESIGNATING THE ALFRED & MINNIE CHERIN HOME LOCATED AT 233 E. CORNELL AVENUE TO THE LOCAL REGISTER OF HISTORIC RESOURCES

President Brand announced the time had arrived to consider the issue and opened the hearing.

Historic Preservation Project Manager Hattersley-Drayton gave a PowerPoint presentation which consisted of Fresno's Local Register of Historic Resources, Criteria for Listing, Significance and Integrity, Definition of Integrity, Historic Significance, Some Benefits of Historic Designation, Heritage Tourism Benefits, History/Details/Photos of the Crest Theater and Recommendation to Approve the Designation, and History/Features/Details/Photos of the Alfred and Minnie Cherin Home and Recommendation to Designate. Councilmember Borgeas left at 10:37 a.m. during the presentation and returned later in the meeting.

Downtown Revitalization Manager Balch spoke in support of the designations and to how historic buildings, especially those like the Crest Theater, are such an important part in revitalizing downtown, and advised the property owners usually use the address of 1170 Broadway Plaza and confirmed both 1160 and 1170 were correct.

Midge Barrett, E. Portland Avenue, representing Heritage Fresno, spoke in support of designating both properties.

Upon call, no one else wished to be heard and President Brand closed the hearing.

A motion and second was made to approve staff's recommendation. Ms. Hattersley-Drayton and Planner Pagoulatos responded to questions of Councilmember Quintero relative to whether the property owners had any interior or exterior restoration plans, what the theater was currently being used for, and the currently pending conditional use permit.

On motion of Councilmember Baines, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution Nos. 2011-13 and 2011-14 hereby adopted, by the following vote:

Ayes	:	Baines, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Borgeas, Westerlund

(10:10 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 10:49 a.m. and Council convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF JANUARY 27, 2011

On motion of President Brand, seconded by Councilmember Quintero, duly carried, RESOLVED, the Agency minutes of January 27, 2011, approved as submitted.

(‘B’) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH CALIFORNIA ASSOCIATES, INC., FOR CONSTRUCTION MANAGEMENT AND CONSTRUCTION STAKING SERVICES NECESSARY FOR THE RELOCATION OF HISTORIC STRUCTURES TO 450 “M” STREET AND EXTERIOR RESTORATION OF STRUCTURES (Agency action)
#1 AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE THE AGREEMENT

Project Manager Cox reviewed the issue and recommended approval, all as contained in the staff report as submitted.

On motion of Member Baines, seconded by Member Xiong, duly carried, RESOLVED, the subject Professional Services Agreement with California Associates, Inc., as outlined above hereby approved, and the Executive Director authorized to execute the agreement, by the following vote:

Ayes	:	Baines, Brand, Quintero, Xiong, Olivier
Noes	:	None
Absent	:	Borgeas, Westerlund

(‘C’) AFFIRMATION OF THE STOREFRONT IMPROVEMENT PROGRAM (SIP) REIMBURSEMENT FOR EXTERIOR RENOVATIONS TO THE FRESNO AREA HISPANIC CHAMBER OF COMMERCE BUILDING AT 1444 FULTON STREET (Agency action)

Executive Director Murphey reviewed the issue and recommended approval, all as contained in the staff report as submitted, and added in terms of CEQA the preliminary environmental assessment determined this item was eligible for a categorical exemption. Member Borgeas returned to the meeting at 10:54 a.m. City Attorney Sanchez added these grants are typically administratively granted but in the abundance of caution staff brought this forth as Chair Westerlund's wife was an employee of the Hispanic Chamber of Commerce and added had the chair been present he would have recused himself.

Antonio Valtierra, Foundation Chair, expanded further on the project and urged support.

On motion of Member Brand, seconded by Member Quintero, duly carried, RESOLVED, the Storefront Improvement Program reimbursement for exterior renovations to the Fresno Area Hispanic Chamber of Commerce building hereby affirmed, by the following vote:

Ayes : Baines, Borgeas, Brand, Quintero, Xiong, Olivier
Noes : None
Absent : Westerlund

(‘D’) DETERMINING THAT THE ACTIVITY CONTEMPLATED BY THE OWNER PARTICIPATION AGREEMENT (OPA) BETWEEN THE AGENCY AND TFS INVESTMENTS, LLC FOR DEVELOPMENT OF A NEW RESIDENTIAL PROJECT AT 541-545 N. FULTON STREET IS WITHIN THE SCOPE OF PROGRAM EIR NO. 03-01 AND THAT THE EIR ADEQUATELY DESCRIBES THE ACTIVITY FOR THE PURPOSES OF CEQA (Agency action)

#1 APPROVE AN OPA BETWEEN THE REDEVELOPMENT AGENCY AND TFS INVESTMENTS, LLC FOR THE SUBJECT PROJECT, SUBJECT TO APPROVAL BY THE EX-OFFICIO ATTORNEY OF THE AGENCY (Agency action)

(4 – 0) Project Manager Barletta reviewed the issue and recommended approval, all as contained in the staff report as submitted. A motion and second was made to approve staff’s recommendation. Ms. Barletta responded briefly to questions of Member Brand relative to the developer’s loan, equity percentage being put into the project by the developer, loan terms, and if there was an acceleration clause.

On motion of Member Baines, seconded by Member Brand, duly carried, RESOLVED, determination is hereby made that the activity contemplated by the OPA between the RDA and TFS Investments, LLC for a new residential project at 541-545 N. Fulton Street is within the scope of Program EIR No. 03-01 and the EIR adequately describes the activity for the purposes of CEQA, and the subject OPA between the RDA and TFS Investments, LLC hereby approved, subject to approval by the Ex-Officio Attorney, by the following vote:

Ayes : Baines, Borgeas, Brand, Quintero, Xiong, Olivier
Noes : None
Absent : Westerlund

The joint bodies adjourned their meeting at 11:02 a.m. and the City Council reconvened in regular session.

UNSCHEDULED COMMUNICATION:

Upon call, no one wished to be heard.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 11:03 a.m. having arrived and hearing no objection, President Brand declared the meeting adjourned.

Approved on the ____10th____ day of ____February_____, 2011.

_____/s/_____
Lee Brand, Council President

ATTEST: _____/s/_____
Yolanda Salazar, Assistant City Clerk